

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: Bair Hugger Forced Air Warming
Devices Products Liability Litigation

MDL No. 15-2666 (JNE/DTS)

This Document Relates to:
ALL ACTIONS

**DEFENDANTS' AMENDED
ITEMIZATION
AND DOCUMENTATION FOR
ALL COSTS**

General Causation Depositions		
Date	Description	Amount
11/2/2016	Mr. Gary Hansen - Deposition transcript	\$906.25
11/7/2016 & 3/7/2017	Mr. Al Van Duren - Deposition transcripts	\$1,740.20
6/28/2017	Dr. Jim Ho - Deposition transcript	\$832.30
7/18/2017	Dr. Theodore Holford - Deposition transcript	\$1,264.05
8/3/2017 & 8/4/2107	Ms. Antonia Hughes and Dr. Richard Wenzel - Deposition transcripts and videos	\$1,611.60
7/10/2017	Dr. Thomas Kuehn - Deposition transcript	\$1,029.30
7/14/2017	Mr. Michael Keen - Deposition Transcript	\$778.46
7/20/2017	Dr. John Abraham - Deposition Transcript	\$1,144.90
7/20/2017	Dr. Jonathan Borak - Deposition Transcript	\$782.90
7/28/2017	Dr. Michael Mont - Deposition Transcript	\$1,071.35
8/8/2017	Dr. Alexander Hannenberg - Deposition transcript	\$888.45

8/11/2017	Dr. Samsun Lampotang - Deposition transcript	\$901.75
7/18/2017	Dr. Gary Settles - Deposition transcript	\$1,042.25
7/7/2017	Mr. Timothy Ulatowski - Deposition transcript	\$1,215.95
10/7/2016 & 11/12/2016	Mr. Mark Albrecht - Deposition transcript	\$1,720.75
3/31/2017	Scott Augustine - Deposition transcript	\$2,892.95
3/29/2018	Dr. Scott Augustine, Mr. J. Randall Benham, and Mr. Brent Augustine - Deposition transcripts	\$2,299.30
2/28/2017	Mr. Ryan Barrows - Deposition transcript	\$277.00
11/16/2017	Mr. Troy Bergstrom - Deposition transcript	\$770.50
3/17/2017	Mr. Robert Buehler - Deposition transcript	\$977.00
3/16/2017	Mr. Robert Crowder - Deposition transcript	\$266.75
3/17/2017	Ms. Suzanne Danielson - Deposition transcript	\$375.50

12/19/2016	Dr. Michelle Hulse-Stevens - Deposition transcript	\$892.95
2/8//17	Mr. Jay Issa - Deposition transcript	\$708.65
11/30/2016	Ms. Caroline Johnson - Deposition transcript	\$926.50
1/18/2017	Mr. Gary Maharaj - Deposition transcript and video	\$1,342.44
11/4/2016	Mr. John Rock - Deposition transcript	\$818.75
3/2/2017	Mr. Mark Scott - Deposition transcript	\$841.50
12/9/2016	Ms. Jana Stender - Deposition transcript	\$509.00
3/10/2017	Mr. Winston Tan - Deposition transcript	\$347.20
12/16/2016	Mr. Dave Westlin - Deposition transcript	\$523.50
12/8/2016	Ms. Teri Woodwick-Sides - Deposition transcript	\$695.50
2/24/2017	Mr. Karl Zgoda - Deposition transcript	\$681.30

3/3/2017	Allen Hamid Ziaimehr - Deposition transcript	\$671.40
9/7/2016	Dr. Kumar Belani - Deposition transcript	\$1,015.45
11/29/2016	Dr. Christopher Nachtsheim - Deposition transcript	\$1,532.20
9/28/2016	Mr. Mark Litchy - Deposition transcript	\$593.90
10/4/2016 & 12/15/2016	Dr. Robert Gauthier - Deposition transcripts	\$1,479.80
12/4/2016	Dr. Andrew Hamer and Dr. Michael Reed - Deposition transcripts and videos	\$6,989.80
12/8/2016	Dr. David Leaper - Deposition transcript and video	\$3,052.50
12/1/2016	Dr. Andrew Legg - Deposition transcript and video	\$4,062.45
1/4/2017 & 1/5/2017	Dr. Paul McGovern - Deposition transcripts and videos	\$15,327.70
1/11/2017 & 1/12/2017	Dr. Sessler - Deposition transcript and video	806.66
1/11/2017 and 1/12/2017	Dr. Andrea Kurz - Deposition transcripts and videos	\$1,037.67
7/21/2017	Dr. Michael Stonnington - Deposition transcript	\$1,255.05
7/25/2017	Dr. William Jarvis - Deposition transcript	\$1,272.15
6/15/2017	Dr. Said Elghobashi - Deposition transcript	\$1,226.45
8/1/2017	Mr. Yadin David - Deposition transcript	\$1,466.30
7/11/2017 & 8/8/2017	Dr. Jonathan Samet - Deposition transcripts	\$1,470.15

6/7/2017	Mr. Michael Buck - Deposition transcript	\$982.70
6/13/2017	Mr. Daniel Koenigshofer - Deposition transcript	\$2,174.75
	TOTAL DEPOSITION TRANSCRIPTS AND VIDEOS	\$79,493.83¹
	LESS COSTS TAXED AND ALLOWED IN RAMSEY COUNTY CONSOLIDATED CASES (\$27,586.14)	\$51,907.69²

Daubert Motions to Exclude the Expert Testimony of Dr. Jarvis in <i>Trombley v. 3M Co.</i>, 16-cv-4159-JNE-DTS		
2/19/2019	Dr. William Jarvis - Deposition Transcript	\$1,380.73
	TOTAL DEPOSITION TRANSCRIPTS	\$1,380.73

¹ On August 2, 2019, the Court entered an Order granting Defendants' Motion for Reconsideration of the Court's December 13, 2017 Order on General Causation, granted Defendants' Motion for Summary Judgment, and granted Defendants' Motion to Exclude Plaintiffs' experts Drs. Samet, Jarvis, Stonnington, and Elghobashi. Under 28 U.S.C. § 1920 and Federal Rule of Civil Procedure 54(d), Defendants, as the prevailing party, are entitled to recover costs. Section 1920(2) allows taxation for court reporter fees and deposition transcripts if they are "necessarily obtained for use in the case." The general causation discovery depositions listed were necessary because the deponents were possible trial witnesses. Moreover, "[g]enerally, courts allow the prevailing party to recover the costs for depositions noticed and taken by the losing party." *Shukh v. Seagate Tech., LLC*, No. 10-404, 2014 WL 4348199, at *4 (D. Minn. Sept 2, 2014), vacated on other grounds by 618 Fed. App'x 678 (Fed. Cir. 2015).

² On July 15, 2019, the Second Judicial District of the State of Minnesota awarded Defendants \$27,586.14 in costs after granting Defendants' Motion for Summary Judgment in *In re 3M Bair Hugger Litigation*, a parallel proceeding. Defendants subtracted this amount from the total costs they now request here so there will not be a double recovery.

Motion for Reconsideration of the Court's December 13, 2017 Order on General Causation		
Date	Description	Amount
5/15/2018	Gareis Trial Tr., Vol. I (Plaintiffs' Opening Statement)	\$1,887.03
5/16/2018	Gareis Trial Tr., Vol. II (Dr. Stonnington)	\$2,027.97
5/17/2018	Gareis Trial Tr., Vol. III (Dr. Jarvis)	\$1,197.99
5/18/2018	Gareis Trial Tr., Vol. IV (Dr. Jarvis)	\$1,475.25
5/21/2018	Gareis Trial Tr., Vol. V (Dr. Elghobashi)	\$886.20
5/25/2018	Gareis Trial Tr., Vol. IX (Mr. Keen and Dr. Abraham)	\$1,913.61
5/29/2018	Gareis Trial Tr., Vol. X (Dr. Abraham)	\$2,040.06
5/30/2018	Gareis Trial Tr., Vol. XI (Plaintiffs' Closing Statement)	\$991.95
4/12/2018	Gareis Daubert and MSJ Hearing Tr.	\$765.63
10/24/2017 & 10/25/2017	General Causation Daubert Hearing Tr., Vol. II	\$2,506.35
	TOTAL TRIAL AND HEARING TRANSCRIPTS	\$15,692.04³
	TOTAL COSTS	\$68,980.46

³ Trial and hearing transcripts are taxable by the Court if the transcript was “necessary for use in the case and the requesting party explains why the trial or hearing transcript was necessarily obtained.” D. Minn. Bill of Costs Guide at 5. The transcripts listed here were necessarily obtained and used in the case because they were submitted with Defendants’ Motion for Reconsideration of the Court’s December 13, 2017 Order on General Causation. The Motion for Reconsideration is was a substantive motion that terminated the litigation. “[I]t is appropriate to tax costs for depositions that are used by a party to support a motion for summary judgment or other substantive motions made to the court in connection with the case.” *Youssef v. FBI*, 762 F. Supp. 2d 76, 86 (D.D.C. 2011).